

CIVIL SERVICE COMMISSION MINUTES

August 20, 2003

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Barry I. Newman
Sigrid Pate
Gordon Austin
A.Y. Casillas

Absent was:

Marc Sandstrom

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

Approved
Civil Service Commission
September 25, 2003

CIVIL SERVICE COMMISSION MINUTES
AUGUST 20, 2003

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
6, 13		8, 9	10, 12

COMMENTS Motion by Pate to approve all items not held for discussion; seconded by Austin. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Newman: Charles Uno on behalf of **Alfonso Padilla**, former Deputy Sheriff-Detentions, appealing an Amended Order of Termination and Charges from the Sheriff's Department.

OPEN SESSION AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and the President of the Commission approves it.

MINUTES

1. Approval of the Minutes of the regular meeting of June 18, 2003.

Approved.

2. Approval of the Minutes of the regular meeting of July 16, 2003.

Approved.

CONFIRMATION OF ASSIGNMENTS

3. Commissioner Pate: Wendell Prude, SEIU Local 2028, on behalf of **Jacqueline Langston**, former Recreation Therapy Aide, appealing an Order of Termination and Charges from the Health and Human Services Agency.

Confirmed.

4. Commissioner Austin: Everett Bobbitt, Esq. on behalf of **2003/004***, Deputy Sheriff-Detentions, appealing an Order of Pay Step Reduction and Charges from the Sheriff's Department.

Confirmed.

5. Commissioner Newman: Wendell Prude, SEIU Local 2028, on behalf of **Mike Miller**, former Detentions Processing Technician, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

DISCIPLINES

Findings

6. Commissioner Newman: Charles Uno on behalf of **Alfonso Padilla**, former Deputy Sheriff-Detentions, appealing an Amended Order of Termination and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - Dishonesty (untruthful disclosure regarding force against an inmate); Cause II - Dishonesty (omission in written documentation relating to use of force); Cause III - Dishonesty; Cause IV - Conduct unbecoming an officer of the County of San Diego; Cause V - Conduct unbecoming an officer of the County of San Diego (induced another deputy to lie concerning the events involving an inmate); Cause VI - Inefficiency (failure to write an Inmate Status Report documenting the transfer of an inmate); Cause VII - Guilty of acts which are incompatible with and/or inimical to the public service.

Employee was a Deputy Sheriff-Detentions for approximately 3 years at the time of his termination, assigned to the George Bailey Detention Facility. At the hearing, there were many different versions of the incident, not only from Employee, but also from numerous witnesses. One of the deputies who testified, "Deputy X", recounted that Employee held an inmate in a forceful manner while escorting him toward the recreation yard, intermittently pulling or tugging at the inmate. Employee repeatedly asked the inmate "why did you do that" or something to that effect. Upon arriving in the sally port, he positioned the inmate to the side of the door to the recreation yard and while the inmate was facing the wall, bumped him repeatedly causing the inmate's head to strike the wall.

It seems that reconciliation of the different versions of testimony, especially Deputy X's, is impossible, especially Deputy X's allegation that Employee instructed him to state that they took the inmate no farther than the medical holding area. Deputy X appears to have no motivation to fabricate such a story, especially since it serves as an admission that he was initially dishonest to two of his Sergeants. This alleged instruction by Employee to Deputy X to lie is indirectly corroborated by Employee's own Inmate Status Report that sets forth the same dishonest version.

Based on a preponderance of evidence, the Department proved all of the charges contained in the Amended Order of Termination and Charges. Employee is guilty of Cause I, Cause II, Cause III, Cause IV, Cause V, Cause VI and Cause VII. It is therefore recommended that the Amended Order of Termination and Charges be affirmed; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Newman to approve Findings and Recommendations; seconded by Austin. Carried.

COMPULSORY LEAVE

Appeals

7. Stephine M. Wells, Esq. on behalf of **Sue Tiu**, Child Support Officer, Department of Child Support Services, appealing her placement on Compulsory Leave by the Department of Child Support Services. (See No. 8 below.)

RECOMMENDATION: Hold in abeyance pending the outcome of the discrimination investigation listed below.

Staff recommendation approved. See No. 8 below.

DISCRIMINATION

Complaints

8. Stephine M. Wells, Esq. on behalf of **Sue Tiu**, Child Support Officer, Department of Child Support Services, alleging discrimination based on race, national origin and disability, as well as retaliation and harassment by the DHR and the Department of Child Support Services. (Continued from the meeting of July 16, 2003. See No. 7 above.)

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff recommendation approved. Commissioner Casillas assigned.

9. Cristina del Toro on behalf of **Edward del Toro**, Equipment Operator, Department of Public Works (DPW), alleging retaliation discrimination by the DPW. (See No. 11 below.)

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff recommendation approved. Commissioner Sandstrom assigned.

10. **Walt Schmidtke**, Park Ranger, Department of Parks and Recreation (DPR), alleging non-job-related factor discrimination (favoritism) by the DPR. (Continued from the meeting of July 16, 2003. See No. 12 below.)

RECOMMENDATION: Deny Request.

Withdrawn.

SELECTION PROCESS

Complaints

11. Cristina del Toro on behalf of **Edward del Toro**, Equipment Operator, appealing his non-selection for the classification of Senior Equipment Operator by the DPW. (See No. 9 above.)

RECOMMENDATION: Hold in abeyance pending the outcome of the discrimination investigation listed above.

Staff recommendation approved.

12. **Walt Schmidtke**, Park Ranger, appealing the selection process used by the DPR and the Department of Human Resources for the classification of Senior Park Ranger. (Continued from the meeting of July 16, 2003. See No. 10 above.)

RECOMMENDATION: Deny Request.

Withdrawn.

OTHER MATTERS

Seal Performance Appraisal

13. **Rosemarie Kurupas**, Sergeant, Sheriff's Department, requesting the sealing of a Performance Appraisal for the period April 24, 2002 to April 23, 2003.

RECOMMENDATION: Consider all written and verbal input.

Rosemarie Kurupas addressed the Commission regarding the above-referenced performance appraisal. She believes the Appraisal was improperly issued and asked that this matter be investigated.

Tom Reed, representing the Department, explained that the Appraisal was timely and the appeal was timely. Mr. Reed stated that the Performance Appraisal was a fully competent report that should not be sealed.

Motion by Austin to deny request; seconded by Pate. Carried.

14. Public Input.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE SEPTEMBER 17, 2003.

*The identity of the peace officer is held confidential per Penal Code Section 832.7 (San Diego Police Officers' Association, et al. v. City of San Diego Civil Service Commission.